



STATE REPRESENTATIVE

GARY HEBL

46TH ASSEMBLY DISTRICT

TO: Members of the Assembly Judiciary and Ethics Committee
Members of the Senate Judiciary, Corrections, Insurance, Campaign Finance
Reform and Housing Committee

FROM: Representative Gary Hebl

RE: AB 189, relating to the homestead exemption

DATE: April 14, 2009

AB 189 increases the amount of the homestead exemption from \$40,000 to \$75,000.

The homestead exemption comes into play when a circuit court orders the seizure of a debtor's property in order to sell that property and pay off debt.

The law provides certain exemptions from such a seizure, one of which is \$40,000 worth of home equity, known as the homestead exemption. This bill raises the amount of the exemption from \$40,000 to \$75,000. It does not change any of the language involved in the exemption statute, just the exemption amount.

This exemption has not been changed since 1985. The \$40,000 exemption provided to the homeowner today is worth almost half of what it was worth in 1985. This bill simply brings the original value of the exemption in line with inflation since 1985.

This bill will help lower-middle class families who are struggling to pay off debt stay in their homes and avoid eviction.

This bill has no fiscal implications on the state budget.

Bankruptcy, Insolvency & Creditors Rights Section



State Bar of Wisconsin

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To: Assembly Judiciary and Ethics Committee
Senate Judiciary, Corrections, Insurance, Campaign Finance Reform and
Housing Committee

From: State Bar of Wisconsin
Bankruptcy, Insolvency & Creditors Rights Law Section

Date: April 10, 2009

Re: Assembly Bill 189/Senate Bill SB 160—Increasing Homestead Exemption

The State Bar of Wisconsin and the Bankruptcy, Insolvency & Creditors Rights Law Section within the State Bar support a variety of revisions to Wisconsin's exemptions statutes. We especially appreciate Representative Hebl and Senator Taylor's proposal that would increase the existing homestead exemption to \$75,000.

Exempt property is property that individuals can keep from execution (seizure) by judgment creditors or a bankruptcy trustee. Debtors are not allowed to exempt property from mortgages, voluntary security interests or statutory or tax liens, only the Debtor's equity in property (above the mortgage) is considered when applying the exemption.

Wisconsin exemptions are currently found under 815.18-815.20. The purpose of these provisions is: "to advance the humane purpose of preserving to debtors and their dependents the means of obtaining a livelihood, the enjoyment of property necessary to sustain life and the opportunity to avoid becoming public charges."

Non-homestead exemptions were last revised in the late 1980s, effective 1990, at which time it was anticipated that the amount would be revisited to keep pace with inflation. That has not taken place.

The homestead exemption was last revised in April 1986, when it changed from \$25,000 to the present \$40,000.

Dollar amounts under the federal Bankruptcy Code exemptions are revisited every three years from changes in the consumer price index. Those were last adjusted in 2007.

State Bar of Wisconsin

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LEGAL Action
OF WISCONSIN**40 Years of Justice**

TO: Senate Committee on Judiciary, Corrections, Insurance, Campaign Finance Reform, and Housing
Assembly Committee on Judiciary and Ethics

FROM: Bob Andersen
Stacia Conneely



RE: AB 189, increasing the amount of the homestead exemption.

DATE: April 14, 2009

Legal Action of Wisconsin, Inc. (LAW) is a nonprofit organization funded by the federal Legal Services Corporation, Inc., to provide legal services for low income people in 39 counties in Wisconsin. LAW provides representation for low income people across a territory that extends from the very populous southeastern corner of the state up through Brown County in the east and La Crosse County in the west. Consumer law is one of the priorities of the organization.

The homestead exemption for consumers who were sued to recover on a debt was initially \$25,000 in 1973. That amount was increased 13 years later to \$40,000. It has been stuck at \$40,000 for the 22 years that have elapsed since 1986.

For an indication of how prices have changed since 1986, we have the following data regarding prices in the 1980's from the website <http://www.thepeoplehistory.com/1980.html>

If you have \$100 Converted from 1980 to 2005 it would be equivalent to \$243.45 today

In 1980 a new house cost \$68,714.00 and by 1989 was \$120,00.00

In 1980 the average income per year was \$19,170.00 and by 1989 was \$27,210.00

In 1980 the average cost of new car was \$7,210 and by 1989 was \$15,400.00

Judgments against consumers result in the automatic establishment of liens against homes.

The low exemption that exists now creates several problems for consumers:

- First, of course, a low exemption means that many more homes are subject to be taken away from consumers. Having a home is not only important to a consumer. It is one of the national and state policies to promote home ownership and the loss of homes due to

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debts runs counter to this policy. Therefore the policies are promoted by having a more realistic exemption.

- Secondly, consumers worry that if they get judgment for a medical debt or a consumer debt, there will be an execution on their home. Because of this fear they are often intimidated from defending themselves in actions for debts owed. They often settle and pay more than they should.
- Medical debts in particular are so complicated, especially when Medicare, Medicaid, and supplemental insurance is supposed to be paying for the costs, that it is easy for mistakes to be made either by the providers or by the consumers in paying too much.
- This is often seen with elderly individuals or disabled children who are left the homes by their parents.
- Because they are so afraid of losing their homes, consumers settle debts, sometimes inaccurately, by making payments in lieu of paying for the bare necessities for living, like food, clothing, and heat.
- An increase in the exemption means that the consumer's home will be better protected in bankruptcy, because the state's exemption can be used. In today's *Wisconsin State Journal*, it was reported that bankruptcies are soaring in Wisconsin, with a 38% increase over March 2008.
- With the economic crisis that is occurring now, protections for homesteads becomes even more important because of the rapidly growing number of workers being laid off and being faced with bills they cannot pay.

Thank you for your consideration of this very important legislation.

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